

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Richard P., by and for R.P. , and Denise L.,)
by and for K.L. ,)
)
Plaintiffs)
)
v.)
)
SCHOOL DISTRICT OF THE CITY	Civil Action No. 03-390 Erie
OF ERIE, PENNSYLVANIA; JANET)
WOODS , Individually and in her Capacity)
as Principal of Strong Vincent High)
School; and LINDA L. CAPPABIANCA ,)
Individually and in her Capacity as)
Assistant Principal of Strong Vincent High)
School,)
)
Defendants) JURY TRIAL DEMANDED

DEFENDANTS' MOTION FOR CONTINUANCE OF TRIAL

Defendants The School District of the City of Erie, Pennsylvania, Janet M. Woods, and Linda L. Cappabianca, respectfully submit the following Defendants' Motion for Continuance of Trial.

1. On October 26, 2003 at 10:39 a.m. the Court issued a Notice of Jury Trial, setting this action for trial during the term of Court commencing on November 28, 2005 and ending on December 22, 2005. Defendants' counsel received the Notice of Jury Trial at 10:43 a.m. on October 26, 2003 by e-mail.

2. In March 2005 defendants' counsel scheduled a vacation beginning on December 3, 2005 and ending on December 12, 2005, involving a flight leaving Erie, Pennsylvania on December 3, 2005 at 10:30 a.m. and one arriving in Erie, Pennsylvania on December 12, 2005 at 10:30 p.m.

3. Traveling with defendants' counsel are his spouse, her mother and her mother's sister. The vacation involves a Caribbean cruise, involving a nonrefundable commitment of funds made in March 2005.

4. This action is listed as number 8 on the November 28, 2005 trial list, which list contains ten cases. Defendants' counsel estimates that the trial of this action will last approximately twelve full trial days. Since there are five days in the term of court before defendants' counsel leaves for vacation and eight days after he returns from vacation, there would not be enough time to try the case before or after his vacation.

5. If the November 2005 trial term were extended to accommodate this trial following defense counsel's return from vacation, the trial would not be completed prior to Christmas. Moreover, it would be very difficult to prepare for such a lengthy trial with a nine-day vacation immediately preceding the trial.

6. Plaintiffs' counsel is in trial at the time of preparation of this motion and, therefore, it is not possible to ascertain plaintiffs' position with respect to this motion before filing it. However, an argument on defendants' motion for partial summary judgment and a settlement conference are scheduled before the Court on October 28, 2005, by which time plaintiffs' position with respect to the motion can be readily ascertained.

WHEREFORE, defendants The School District of the City of Erie, Pennsylvania, Janet M. Woods and Linda L. Cappabianca respectfully request that the Court continue the trial of this action to the next term of Court, which commences on January 23, 2006.

Respectfully submitted,

/s/ James T. Marnen

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The School District of the City of Erie, Pennsylvania,
Janet M. Woods and Linda L. Cappabianca

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ERIE, PENNSYLVANIA; JANET)
WOODS, Individually and in her Capacity as)
Principal of Strong Vincent High School; and)
LINDA L. CAPPABIANCA, Individually)
and in her Capacity as Assistant Principal of)
Strong Vincent High School,) **JURY TRIAL DEMANDED**

Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of October, 2005, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen

James T. Marnen